



Waganakising Odawak

Little Traverse Bay Bands of Odawa Indians

Office of Tribal Chairman

7500 Odawa Circle, Harbor Springs, Michigan 49740

Phone 231-242-1418 • Fax 231-242-1411

DISCLOSURE OF PUBLIC DOCUMENTS REGULATIONS REG-WOS 2009-025 052510-001

- I. Introduction.** These Regulations are promulgated pursuant to Section VII of the Disclosure of Public Documents Statute, WOS 2009-025, which was passed by Tribal Council on August 10, 2009 and signed into law by the Executive on August 21, 2009. These Regulations set forth:
- A. A method for defining classifications of documents as but not limited to public, confidential, undisclosed, legal, enterprise proprietary, and personnel;
 - B. A method for marking, controlling, keeping and releasing documents; and
 - C. A schedule for reasonable cost for release of documents.
- II. Definitions:**
- A. **Appropriate Authority:** means the person who possesses the authority to make the decision regarding release of documents within the government branch or division, department, agencies, entity, enterprise or office.
 - B. **Authorized Representative:** means a Tribal Citizen who holds a signed notarized statement of authority on behalf of another Tribal Citizen.
 - C. **Copies:** means paper photocopies, commonly referred to as hard copies. It may also include electronic files unless otherwise indicated in these regulations.
 - D. **DPDO or Disclosure of Public Documents Officer:** means a governmental administrative employee designated by the Tribal Chairman to process Public Documents requests.
 - E. **LTBB or Tribe:** means the Little Traverse Bay Bands of Odawa Indians.
 - F. **Public Documents:** means all written or electronic documents in possession of the Tribe unless exempt from public disclosure under the Disclosure of Public Documents Statute or by other applicable law. The Disclosure of Public

Approved by Tribal Council 060610

Approved by The Executive 052510

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Documents Statute and these Regulations do not require LTBB officials and staff to create any reports or other documents that do not already exist at the time of the request.

III. Classification of Documents. All written or electronic documents in possession of the Tribe are Public Documents except for the following:

- A. Sealed adoption records within a Tribal Citizen's enrollment file that have been sealed under a court order. This exemption includes a Tribal Citizen's own records unless the Citizen obtains a court order for their release.
- B. Records covered by attorney client privilege. Work product generated by an attorney employed or retained by the Tribe, and consultants to an attorney, such as expert witnesses, including research, memoranda, written and electronic correspondence, less than five years old is assumed to fall under the attorney client privilege unless the Tribe's Legal Department certifies otherwise to the DPDO. Work product generated by an attorney employed or retained by the Tribe, or by an attorney's consultant, that is over five years old is assumed to be a public document unless the Tribe's Legal Department certifies otherwise to the DPDO, such as situations where the documents involve cases or matters that are still pending.
- C. Records that contain confidential business or legal matters involving the Tribe or a Tribal Citizen. Records the public release of which could impair the business or legal interests of the Tribe or of a Tribal Citizen fall under this exception. The Tribal Chairman or his designee, in consultation with appropriate staff as needed, such as the Tribal Administrator, Chief Financial Officer, Legal Department, or OEM, is the Appropriate Authority to certify to the DPDO whether documents fall under this exception.
- D. Records that raise significant privacy or confidentiality concerns for the Tribe or a Tribal Citizen. This exemption includes personnel, counseling and medical records, and similar records the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. This exemption does not include withholding information pertaining to the Tribal Citizen except as provided in subsection A, records covered by the Tribe's attorney-client privilege under subsection B, or as otherwise provided by applicable law.
- E. Records within a pending investigation either before an administrative or judicial proceeding involving the Tribe or a Tribal Citizen.
- F. Records subject to or that could impair a criminal investigation.

- G. Records specifically exempt by other current and future statutes. Examples of statutes containing provisions regarding confidential records include, but are not limited to:
1. Enrollment Statute, WOS 2008-006,
 2. Child Protection Statute, WOS 2006-18,
 3. Child Welfare Commission Statute, WOS 2009-13,
 4. Juvenile Justice Statute, WOS 2007-011,
 5. Economic Development Commission Statute, WOS 2009-023
 6. Gaming Regulatory Statute, WOS 2005-06, and
 7. Domestic Violence Protection, WOS 2006-014.

IV. Request and Disposition Forms.

- A. Request form. The Executive Branch, through the Tribal Administrator or designee, shall prepare a request form that includes the name, address and contact information of the citizen making the request, the citizen's enrollment number, a description of the documents requested, whether the request is for copies or on-site review, and a signature and date line. There is a second form for internal LTBB office use and request tracking for the DPDO to fill out listing the document copies provided, documents reviewed on-site, and documents not provided under one or more of the exceptions listed in Section III. If the request is made as an Authorized Representative of another Tribal Citizen, a signed notarized statement of authority from such Tribal Citizen must be attached to the request form.
- B. The request form will be made available to all Tribal citizens, by sending, faxing or emailing it to them upon their written or verbal request, and through the LTBB website. Public Documents will only be subject to release or on-site review upon completion and submission of a signed request form.

V. Processing Requests.

- A. All Public Documents request forms submitted by Tribal Citizens will be receipt date stamped and forwarded to the DPDO. The DPDO will process the requests as follows:

1. The DPDO will first review the request form to make sure that all information has been filled in and that the form is signed by the Tribal Citizen. In the event that the form is incomplete the DPDO will contact the Tribal Citizen by phone, email or mail, to inform the Citizen of the omitted information. The Citizen may come in and finish the form or submit a new form.
2. Once the DPDO determines that the form is complete, the DPDO will proceed with classification of the requested documents as Public Documents or documents falling under a Section III exception.
 - a. The DPDO will first check to see if any of the requested documents are available on public access portions of the LTBB website. Any such documents will automatically be classified as Public Documents. For such documents, the DPDO will contact the Tribal Citizen to ask if the Citizen prefers to access the documents on-line or would still like a copy.
 - b. Each department will be provided these Regulations, which will be periodically reviewed at directors' meetings. For documents not available through public access portions of the LTBB website, the DPDO will forward a copy of the request form to the department director where the requested document is housed. If the document is a Public Document, then the director will forward photocopies to the DPDO, or coordinate with the DPDO to arrange a time a place for on-site review if the Citizen has so requested. If one or more documents fall under a Section III exception, the director shall notify the DPDO of the exception in writing. If the director has any question as to the status of a document as a Public Document or Section III exception, the director shall request a review and opinion from the LTBB Legal Department.
 - c. The DPDO will send copies of requested Public Documents to the requesting Citizen at the address provided on the request form, or hand deliver the Public Documents to the Citizen at the governmental offices. If electronic copies of documents are available, the DPDO may provide them via email, compact disc, or by similar technology if the Citizen so prefers. In the event the Citizen has indicated a preference on the request form to review documents on-site rather than receive copies, the DPDO will coordinate such review with the appropriate department. The DPDO will also provide the Citizen a list of all documents that were not subject to review or release under Section III, along with

a citation to the applicable subsection.

- d. Fees. The DPDO shall collect a fee of 10 cents per page from the requesting Citizen for photocopied documents.
- e. Timing. The DPDO will use best efforts to provide document copies or arrange for on-site review within 7 days of the receipt of a request. When this is not possible, due to factors such as difficulty in locating archived documents or availability of department staff to coordinate review, the DPDO will notify the Citizen of the time it will take to process the request.
- f. Notification of Appeal Rights. If all or part of a Public Documents request is denied, the DPDO will provide written notification to the requesting Citizen of the right to file a complaint in LTBB Tribal Court within thirty (30) days of the denial.

VI. Marking, Controlling, and Safe-keeping of Documents.

A. Marking.

- 1. Paper documents. To the extent feasible, hard copy documents that fall under a Section III exception shall be stamped confidential at the point of generation or filing, along with a brief notation of the Section III exception.
- 2. Electronic Copies. To the extent feasible, all electronic documents that fall under a Section III exception shall be marked confidential by an appropriate water mark, header, or footer.
- 3. To avoid releasing confidential documents, or failing to release documents that are no longer sensitive, a determination of the status of a document must be made each time a document request form is being processed under Section V, regardless of any notations on the documents. If necessary, document markings will be added, updated or corrected at the time of processing requests under these Regulations.

B. Control and Storage.

- 1. Limited Access. Each Executive department shall be responsible for implementing measures which limit access to non-public documents (documents falling under a Section III exception) to staff or officials who are authorized to handle or view such documents.

2. Notice and Posting. Areas not open to the public should be clearly marked and should indicate that access to that area is limited to authorized staff.
3. Non-public documents shall be stored in area that is not accessible to the general public; the storage area must be capable of being locked or otherwise secured. Non-public documents should be handled at all times in a manner which preserves their non-public character.
4. Public Documents. Public documents may be stored in any manner which is convenient or efficient, that reasonably protects them from loss or damage.

VII. Legislative and Judicial Branches; the Election Board and the Prosecutor. When requests are made for Legislative, Judicial, Election Board or Prosecutor's Office documents that are not in the possession of the Executive Branch, the Executive Branch shall forward such request to the appropriate office. The Legislative and Judicial Branches, Prosecutor, and Election Board will appoint their own DPDOs to process Public Documents requests for records in their possession.

CERTIFICATION

As Chairperson, I approve this Disclosure of Public Documents Regulations.

Date: _____

Ken Harrington, Tribal Chairperson

Received by the Tribal Council Office on: _____ by: _____

As the Legislative Leader and Tribal Council Secretary, we certify that this Disclosure of Public Documents Regulations were approved by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on _____ at which a quorum was present, by a vote of ____ in favor, ____ opposed, ____ abstentions, and ____ absent.

Date: _____

Julie Shananaquet, Legislative Leader

Date: _____

Regina Gasco Bentley, Secretary